

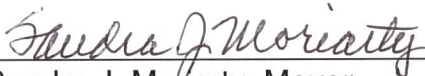
RESOLUTION NO. 2016-12

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA,
ARIZONA, APPROVING A LICENSE AGREEMENT WITH WAYSIDE CHAPEL
SEDONA COMMUNITY CHURCH FOR THE UPTOWN PEDESTRIAN ACCESS
IMPROVEMENTS PROJECT AND PROVIDING AUTHORIZATION FOR THE MAYOR
TO EXECUTE SAID AGREEMENT.**

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE COUNCIL
OF THE CITY OF SEDONA, ARIZONA THAT:


The City of Sedona, through its Mayor and Council, hereby approves the License Agreement attached as Exhibit A between the City of Sedona and Wayside Chapel Sedona Community Church to allow for the construction of improvements on Wayside Chapel property and to allow for pedestrian ingress and egress from the City's public parking lot to SR 89A in Uptown. The Mayor is hereby authorized to execute said Agreement on behalf of the City.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 12th day of April, 2016.




Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Robert L. Pickels, Jr., City Attorney

Recorded at the Request of:
CITY OF SEDONA

When Recorded Mail to:
CITY OF SEDONA
PUBLIC WORKS DEPARTMENT
102 ROADRUNNER DRIVE
SEDONA, ARIZONA 86336

LICENSE AGREEMENT
CITY OF SEDONA & WAYSIDE CHAPEL

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made as of this ____ day of _____, 2016, by and between Wayside Chapel Sedona Community Church ("Owner"), and the City of Sedona, State of Arizona ("City").

The following recitals of fact are a material part of this agreement.

A. Owner is the owner of that parcel of land located in the City, which is legally described in Exhibit A attached hereto and by this reference made a part hereof.

B. The City desires to utilize a portion of the property as shown on Exhibit A for the purpose of providing ingress and egress from the City's public parking lot to Uptown for pedestrian use, to be known as a pedestrian walkway ("Walkway"). This includes construction of an elevator, elevated bridge structure, sidewalk, and newly constructed ADA accessible parking lot. These improvements are reflected in the sealed plans prepared by Peak Engineering, Inc., entitled, "City of Sedona Uptown Pedestrian Access Improvements Project."

NOW, THEREFORE, in consideration of the foregoing, the mutual agreement of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Grant of License.** Owner hereby grants to the City a non-exclusive license to utilize that portion shown in Exhibit A as a location for said improvements to provide a Walkway to and from Uptown and the City's public parking lot. The license granted to City herein shall not change the character of that portion shown in Exhibit A, which shall remain the private property of Owner.
2. **Term of License.** The license granted hereunder shall commence on the date hereof and shall continue until terminated:
 - (a) by the City upon at least 90 (ninety) days prior written notice, provided that City may not terminate this license prior to the 50th annual anniversary of the date of this Agreement.
 - (b) by the Owner upon at least 90 (ninety) days prior written notice, provided that Owner may not terminate this license prior to the 50th annual anniversary of the date of this Agreement.
3. **Transfer of Owner.** Owner may at any time in its sole discretion assign its rights hereunder or transfer or convey the Walkway and the parcel on which it has been constructed. Upon any such assignment, transfer of conveyance, the liability of Owner under this Agreement shall automatically terminate, and Owner's assignee, transferee or grantee shall be deemed to have assumed and be bound by the obligations of Owner under this Agreement.

- 4. City's Maintenance of Walkway.** The City shall maintain the Walkway in good condition and repair at its sole cost and expense. No improvements shall be made without prior written consent of Owner, except as specifically provided for herein. The City's maintenance responsibilities shall include all lighting related to the illumination of the Walkway. City shall provide signage on SR 89A, indicating direction towards the Wayside Chapel main entrance. All maintenance of the Walkway shall be performed by the City in a timely manner, including, but not limited to, elevator repair, trash removal, and snow/ice removal. It shall be the City's responsibility to maintain and certify the elevator (including building code, fire marshal, and state requirements). It shall be the City's responsibility to maintain the paint or other aesthetic treatments to the retaining walls and handrail within the Agreement area.
- 5. Owner's Maintenance Responsibilities.** The owner shall be responsible for maintenance of all improvements outside of the Agreement area and outside of City Right-of-Way. This includes signage, posts, striping, asphalt, and other associated appurtenances related to the newly constructed ADA parking lot. Owner shall maintain all underground storm drain facilities on the property including the drain line that falls within the Agreement area on the south side of the Walkway. City shall provide prompt and reasonable notice to Owner of any drainage related impediments affecting City's use and enjoyment of the Agreement area.
- 6. Reservation of Rights by Owner.** The right to use the Walkway and the right of ingress and egress over the Walkway is expressly reserved by Owner, its successors, grantees, invitees and assigns. In addition, and not by limitation but by way of example, Owner, its successors, grantees, invitees and assigns, reserve the right from time to time to grant additional ingress, egress and utility licenses and easements over, upon and under said Walkway provided that such licenses or easements do not unreasonably interfere with the City's use of the Walkway pursuant to the terms hereof. No improvements shall be made by Owner within the Agreement area without prior written consent of the City through a permit, except as specifically provided for herein.
- 7. No Transfer By The City.** The City shall not transfer any of its rights hereunder without the prior written consent of Owner. Any such assignment made without the prior written consent of Owner shall be null and void and no force or effect and shall entitle Owner to immediately terminate this Agreement.
- 8. Indemnity.** The City for and on behalf of itself and all successors, grantees, invitees and assigns, jointly and severally assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property that may be sustained directly or indirectly due to the conditions of the Walkway.

The City shall indemnify, hold harmless and defend Owner and Owner's directors, officers, members, agents and employees (the "Indemnitees") for, from and against any and all claims, liabilities, and expenses, including attorneys' fees and court costs

which may be claimed or asserted against the Indemnitees, on account of the exercise by the City and/or its invitees (including the general public), licensees, agents, employees, successors and assigns of the rights, easements and privileges granted and conveyed by this Agreement, except for claims resulting from the gross negligence of Indemnitees. The City's obligations under this paragraph shall survive any termination of this Agreement.

- 9. Insurance.** The City shall, at its sole cost and expense, purchase and keep in full force and effect during the term hereof insurance policies of Municipal General Public Liability Insurance (including, but not limited to, contractual liability insurance covering, without limitation, the City's indemnification obligations hereunder) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence whether involving bodily injury liability (or death resulting therefrom) or property damage liability of a combination thereof with a minimum aggregate limit of Two Million Dollars (\$2,000,000.00) such insurance shall also insure the City's officers, directors, employees, agents, representatives, contractors, and subcontractors. The City shall name Owner as an additional insured or loss payee, as applicable, on such policy for claims or liability related to this Agreement.

- 10. License Only: No Warranty: Integration.** This Agreement creates a license only and the City acknowledges that the City does not and shall not at any time obtain or claim any interest or estate of any kind or extent whatsoever in the Walkway by virtue of this license or the City's or the public's use of the Walkway pursuant hereto. The non-exclusive license granted by this Agreement is the only right granted to the City to utilize the Walkway. The City hereby disclaims any other right whatsoever to utilize the Walkway and the City acknowledges and agrees that the Walkway is not now nor shall it by virtue of this Agreement be encumbered by any other licenses, easements or other property rights in favor of the City and that the rights granted here in for the nonexclusive license are the only rights of either Licensee in the Walkway. This Agreement embodies the entire understanding and Agreement of the parties hereto, and there are no further or other agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof, including any rights at any time possessed by the City.

- 11. Notices.** All notices and other communications given pursuant to this Agreement shall be in writing and sent to the following:

City of Sedona
Justin Clifton, City Manager
102 Roadrunner Drive
Sedona, AZ 86336

Owner
Wayside Chapel Sedona Community Church
PO Box M
Sedona, AZ 86339

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
day and year first above written.

OWNER

LICENSEES

The City of Sedona, State of Arizona

By _____

By Sandra J. Moravitz

Title: _____

Title: Mayor

Approved as to form:


ATTEST:



City Attorney

Title CITY CLERK

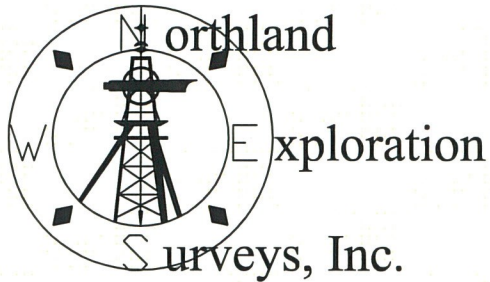


EXHIBIT "A"

LEGAL DESCRIPTION:

A portion of Book 34 of Official Records, Page 279 (R1) and a portion of Book 141, Page 309 (R2) of the Records of Coconino County, Arizona, situated in Section 8, Township 17 North, Range 6 East, Gila and Salt River Meridian, Coconino County, Arizona, said parcel being more particularly described as follows:

FROM the West $\frac{1}{4}$ of said Section 8, said point being a found GLO Cap, thence N $29^{\circ} 14' 48''$ E for a distance of 1258.95 feet (Basis of Bearing (West $\frac{1}{4}$ to NW Section corner of said Section 8): N $00^{\circ} 28' 12''$ W)) to the Northwest Right-of-Way line of Arizona State Highway 89A;

thence N $51^{\circ} 18' 33''$ E, along said North Right-of-Way line, for a distance of 54.00 feet to the most Southerly parcel corner of said R1, said point being a found Tag 32224;

thence continue N $51^{\circ} 18' 33''$ E, along said North Right-of-Way line, said line being coincident with the Southeast parcel line of said Parcel R1, for a distance of 60.00 feet to the **TRUE POINT OF BEGINNING**;

thence continue N $51^{\circ} 18' 33''$ E, along said Southeast parcel line, for a distance of 10.00 feet, to a found Tag 32224, said point being the Southeast parcel corner of said Parcel (R1);

thence N $38^{\circ} 22' 57''$ W, along the Northeasterly parcel line of said Parcel R1, for a distance of 80.16 feet to a found $\frac{1}{2}$ " rebar, said point being the Northeast parcel corner of said Parcel R1 and the Southeast parcel corner of Parcel R2;

thence N $07^{\circ} 45' 54''$ W, along said Northeasterly parcel line of said Parcel R2, for a distance of 30.76 feet to a point;

thence N $80^{\circ} 06' 41''$ W for a distance of 77.68 feet to a point;

thence N $38^{\circ} 53' 04''$ W for a distance of 11.61 feet to a point;

thence N $59^{\circ} 19' 51''$ W for a distance of 3.45 feet to a point on the Northwesterly parcel line of said Parcel R2, said point being a non-tangent point of curvature;

thence Southwesterly, along said Northwesterly parcel line, along a curve to the left, said curve having a central angle of $09^{\circ} 55' 37''$ and a radius of 24.98 feet, for a distance of 4.33 feet, the chord of said curve bears S $35^{\circ} 50' 26''$ W for 4.32 feet, to a point of tangency;

thence S $30^{\circ} 50' 09''$ W, along said Northwesterly parcel line, for a distance of 4.93 feet to a point;

thence S $38^{\circ} 53' 04''$ E for a distance of 25.62 feet to a point;

thence S $80^{\circ} 06' 41''$ E for a distance of 59.42 feet to a point;

thence S $18^{\circ} 00' 47''$ E for a distance of 16.75 feet to a point;

thence S $39^{\circ} 07' 54''$ E for a distance of 15.52 feet to a point;

thence N $51^{\circ} 37' 20''$ E for a distance of 2.00 feet to a point;

thence S $38^{\circ} 22' 58''$ E for a distance of 75.38 feet to the **TRUE POINT OF BEGINNING**,

said parcel contains 2,628 square feet of land, more or less, including any easements of record over the above mentioned parcel, as shown on **EXHIBIT "A-1"**, which is made a part hereof by this reference.

NES # 13-090.

P.O. BOX 1401 / Flagstaff, Arizona 86002 / (928) 774-5058



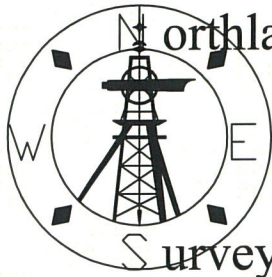
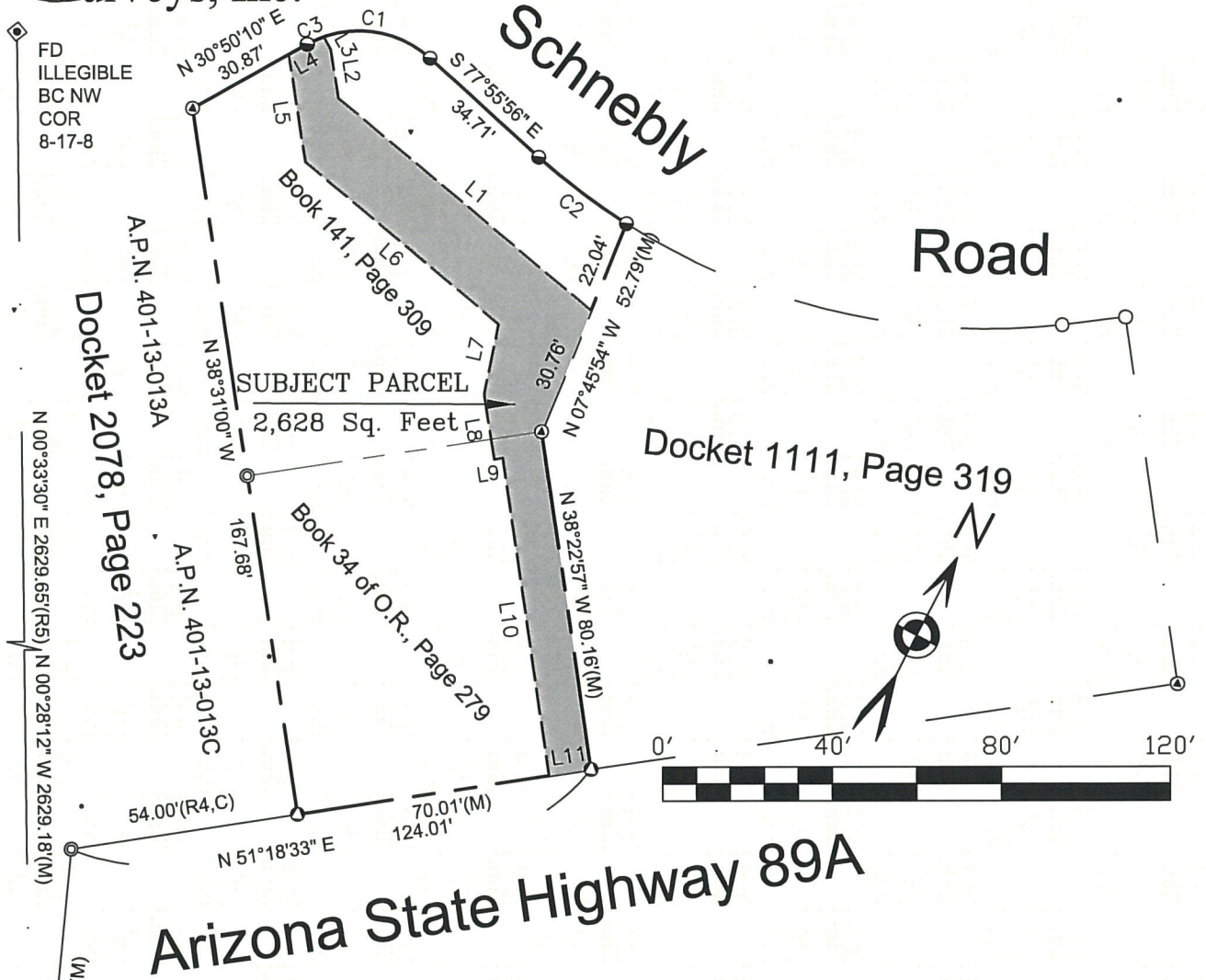


EXHIBIT "A-1"

A portion of Book 34 of Official Records, Page 279 and a portion of Book 141, Page 309 of the Records of Coconino County, Arizona, situated in Section 8, Township 17 North, Range 6 East, Gila and Salt River Meridian, Coconino County, Arizona.



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	24.98'	31.05'	29.09'	S 66°29'35" W	71°13'54"
C2	159.45'	25.94'	25.91'	S 83°01'51" E	9°19'18"
C3	24.98'	4.33'	4.32'	S 35°50'26" W	9°55'37"

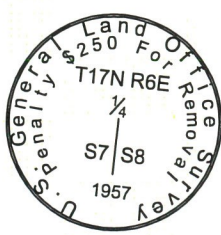
LINE	BEARING	DISTANCE
L1	N 80°06'41" W	77.68'
L2	N 38°53'04" W	11.61'
L3	N 59°19'51" W	3.45'
L4	S 30°50'09" W	4.93'
L5	S 38°53'04" E	25.62'
L6	S 80°06'41" E	59.42'
L7	S 18°00'47" E	16.75'
L8	S 39°07'54" E	15.52'
L9	N 51°37'20" E	2.00'
L10	S 38°22'58" E	75.38'
L11	N 51°18'33" E	10.00'

FD
BC
in
H/H
mkd

1.34'

10.03'

Pink Jeep Building



NES # 13-090

P.O. BOX 1401 / Flagstaff, Arizona 86002 / (928) 774-5058